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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MACLAIN MULLINS, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIG HEART PET BRANDS, INC., a
Delaware corporation,

Defendant.

) Case No. 4:18-cv-00861-JSW

) Related Cases:

) Roupe (4:18-cv-01465-JSW)

) Sebastiano (4:18-cv-01466-JSW)

) Sturm (4:18-cv-01099-JSW)

) Williamson (4:18-cv-01663-JSW)

) **STIPULATION AND**
) **~~PROPOSED~~ ORDER**
) **CONSOLIDATING RELATED**
) **ACTIONS AND APPOINTING A**
) **LEADERSHIP STRUCTURE FOR**
) **PLAINTIFFS**
) **AS MODIFIED HEREIN**

1 **WHEREAS**, there are presently actions pending in this District against defendant
2 Big Heart Pet Brands, Inc. ("Big Heart Pet Brands" or "Defendant"): *Mullins v. Big Heart*
3 *Pet Brands, Inc.*, Case No. 4:18-cv-00861-JSW; *Roupe v. Big Heart Pet Brands, Inc.*, Case
4 No. 3:18-cv-01465-JSW; *Sebastiano v. Big Heart Pet Brands, Inc.*; Case No. 3:18-cv-
5 01466-JSW; *Sturm v. Big Heart Pet Brands, Inc.*, Case No. 3:18-cv-01099-JSW; and
6 *Williamson, et al. v. Big Heart Pet Brands, Inc.*, Case No. 3:18-cv-01663-JSW (together,
7 the "Related Actions");

8 **WHEREAS**, under Fed. R. Civ. P. 42(a), when actions involve "a common question
9 of law or fact," the Court may "(1) join for hearing or trial any or all matters at issue in the
10 actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost
11 or delay.";

12 **WHEREAS**, the Related Actions challenge similar alleged conduct by Big Heart
13 Pet Brands and involve common questions of law and fact;

14 **WHEREAS**, the Parties therefore respectfully submit that consolidation of the
15 Related Actions is appropriate;

16 **WHEREAS**, to avoid potentially duplicative actions and to prevent any waste of
17 the Court's resources, the Parties agree that the Related Actions should be related and
18 consolidated for all purposes under Fed. R. Civ. P. 42(a), including pre-trial proceedings
19 and trial, into a single consolidated action (hereinafter referred to as the "Consolidated
20 Action");

21 **WHEREAS**, Plaintiffs wish to designate lead counsel ("Leadership Structure");

22 **WHEREAS**, Defendant takes no position as to the proposed Leadership Structure
23 and designation of Plaintiffs' Lead Counsel and Plaintiffs' Executive Committee in this
24 stipulation;

25 **WHEREAS**, the Parties have met and conferred and agree that Plaintiffs shall file
26 a single consolidated complaint for the Related Actions by May 4, 2018; and
27
28

1 **WHEREFORE**, the Parties, through their undersigned counsel, hereby agree,
 2 stipulate, and respectfully request that the Court enter an Order as follows:

3 1. Defendant hereby acknowledges service of the summons and complaint in
 4 each of the Related Actions. Aside from defenses and objections related to the absence of
 5 a summons or service, Defendant expressly reserves all defenses and objections to the
 6 complaints filed in each of the Related Actions and any complaints filed in the
 7 Consolidated Action.

8 2. Defendant need not answer, move or otherwise respond to any of the
 9 complaints currently filed in the Related Actions.

10 3. Defendant further reserves its right to seek transfer of the Consolidated
 11 Action or, if additional actions are filed in other venues, seek designation of a multi-district
 12 litigation.

13 4. The following actions shall be consolidated for all purposes, including pre-
 14 trial proceedings and trial, into one consolidated action:

<u>Case Name</u>	<u>Case No.</u>	<u>Filing Date</u>
<i>Mullins v. Big Heart Pet Brands, Inc..</i>	3:18-cv-00861-JSW	February 9, 2018
<i>Roupe v. Big Heart Pet Brands, Inc..</i>	3:18-cv-01465-JSW	March 7, 2018
<i>Sebastiano v. Big Heart Pet Brands, Inc..</i>	3:18-cv-01466-JSW	March 7, 2018
<i>Sturm v. Big Heart Pet Brands, Inc.</i>	3:18-cv-01099-JSW	February 21, 2018
<i>Williamson, et al., v. Big Heart Pet Brands, Inc.</i>	3:18-cv-01663-JSW	March 16, 2018

21 5. Every pleading filed in the Consolidated Action, or in any separate action
 22 included herein, must bear the following caption:

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE BIG HEART PET BRANDS
LITIGATION

This Document Relates To:

ALL ACTIONS.

Lead Case No. 4:18-cv-00861-JSW

(Consolidated with No. 3:18-cv-01465;
3:18-cv-01466; 3:18-cv-01099; and
3:18-cv-01663)

Hon. Jeffrey S. White
Courtroom: 5, 2nd Floor

6. The files of the Consolidated Action will be maintained in one master file under Lead Case No. 4:18-cv-00861-JSW.

7. Lead Counsel for Plaintiffs for of the Consolidated Action, *In re Big Heart Pet Brands Litigation*, Lead Case No. 4:18-cv-00861-JSW, is designated as follows:

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8. Plaintiffs' Lead Counsel will be responsible for coordinating all activities and appearances on behalf of plaintiffs and for the dissemination of notices and orders of this Court. Defendant's counsel may rely upon all agreements made with Plaintiffs' Lead Counsel, or other duly authorized representative of Plaintiffs' Lead Counsel, and such agreements will be binding on Plaintiffs.

9. Plaintiffs' Executive Committee for the Consolidated Action, *In re Big Heart Pet Brands Litigation*, Lead Case No. 4:18-cv-00861-JSW, is designated as follows:

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10. If a case that properly belongs as part of *In re Big Heart Pet Brands Litigation*, Lead Case No. 4:18-cv-00861-JSW, is hereafter filed in this Court or transferred to this Court from another court, Plaintiffs' Lead Counsel shall promptly ^{file a notice of related} ~~call to the attention~~ case in the master case and, if the new case is related and reassigned to the undersigned judge, shall ~~of the Clerk of the Court the filing or transfer of any case that might properly be~~ address whether it should be consolidated with ~~consolidated as part of~~ *In re Big Heart Pet Brands Litigation*, Lead Case No. 4:18-cv-00861-JSW.

11. In the interest of efficiency and avoidance of unnecessary duplication of effort or judicial resources by the Court or the Parties, it is further Ordered that (i) Plaintiffs shall file a consolidated complaint on or before May 4, 2018; and (ii) the Parties shall meet and confer within seven (7) days of that filing and propose a schedule with the Court regarding further proceedings in the Consolidated Action, including the filing of Defendant's anticipated motion to dismiss, which will be due no less than 60 days after the filing of the consolidated complaint.

12. Pursuant to Fed. R. Civ. P. 5(b)(2)(E), all parties consent to service by e-mail of any document required to be served in the Consolidated Action. Service on Plaintiffs' Lead Counsel will constitute service on Plaintiffs in this action.

IT IS SO STIPULATED.

1
2 Dated: April 3, 2018

LOCKRIDGE GRINDAL NAUEN P.L.L.P.
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4 s/ Rebecca A. Peterson

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15 ***Attorneys for Plaintiff***

13 Dated: April 3, 2018

WINSTON & STRAWN LLP

15 /s/ Ronald Y. Rothstein
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Attorneys for Defendant
BIG HEART PET BRANDS INC.

SIGNATURE ATTESTATION

I, Rebecca A. Peterson, am the ECF user whose identification and password are being used to file the foregoing Stipulation and [Proposed] Order Consolidating Related Actions and Appointing A Leadership Structure for Plaintiffs. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained.

Dated: April 3, 2018

/s/ Rebecca A. Peterson
REBECCA A. PETERSON

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: April 3, 2018

Jeffrey S. White
JOY JEFFREY S. WHITE
UNITED STATES DISTRICT COURT